

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL JERMAIL CRIMES,

Petitioner,

v.

CINDI S. CURTIN,

Respondent,

CASE NO. 09-10402

HONORABLE MARIANNE O. BATTANI

MAGISTRATE JUDGE KOMIVES

**ORDER (1) RE-OPENING THIS CASE,
(2) GRANTING PETITIONER'S MOTION TO AMEND HIS HABEAS PETITION,
AND (3) DIRECTING RESPONDENT TO FILE A RESPONSIVE PLEADING**

On February 2, 2009, petitioner Michael Jermail Crimes filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. He challenged his state convictions and sentence for armed robbery and first-degree home invasion. He raised two claims about the scoring of the state sentencing guidelines and a third claim, which alleged that his trial attorney was ineffective for failing to produce certain witnesses at trial.

Petitioner subsequently moved to hold his habeas petition in abeyance while he pursued additional state remedies. On March 31, 2009, the Court granted Petitioner's motion on the condition that he file a motion for relief from judgment in the trial court within ninety days of the Court's order. The Court further conditioned the stay on Petitioner moving to re-open this case and filing an amended habeas petition within ninety days of exhausting state court remedies for his new claims. The Court closed the case for administrative purposes only.

Currently pending before the Court is Petitioner's motion to reinstate this case and to amend his habeas petition to include the four claims that he raised in his motion for relief from judgment in the trial court. Those claims allege that: trial counsel was ineffective for failing to object to the sufficiency of the evidence for armed robbery; trial counsel had a conflict of interest; the jury instruction on aiding and abetting was erroneously incorporated into the armed robbery instruction; and appellate counsel was "cause" for Petitioner's failure to raise these issues in the first appeal.

Petitioner appears to have exhausted state remedies for all his claims, both his initial three claims and his four newer claims. He also appears to have complied with the conditions of the Court's stay by filing a timely post-conviction motion in state court and by promptly moving for reinstatement of this case following exhaustion of state remedies. Accordingly, the motion to amend the habeas petition and to reinstate this case [Dkt. #8] is **GRANTED**. Respondent is **ORDERED** to file the relevant state court records and a response to the amended petition within 180 days of the date of this order.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

Dated: October 5, 2010

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon the Petitioner, and Counsel for the Respondent via ordinary U.S. Mail and electronic filing.

s/Bernadette M. Thebolt
Case Manager